

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT
for OCTOBER 12, 2005 PLANNING COMMISSION MEETING

PROJECT #: Miscellaneous No.05024

PROPOSAL: Amend the Lancaster County Land Subdivision regulations to allow the Planning Director to approve county final plats and to allow Community Unit Plans to be submitted without a preliminary plat.

CONCLUSION: In conformance with the Comprehensive Plan.

<u>RECOMMENDATION:</u>	Approval
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GENERAL INFORMATION:

COMPREHENSIVE PLAN SPECIFICATIONS:

Examine ways of simplifying the development regulations and supporting documentation to encourage a broader understanding of planning concepts and their relevance to neighborhoods' and businesses' continuity and viability. (F-152)

As these are applied in the future, consideration should be given to the continued use and possible expansion of "fast track" incentives. These incentives allow development proposals to be reviewed, and possibly approved in a shorter period of time than might normally occur. (F-153)

HISTORY

March 29, 2005 Section 23-174.03, Reissue Revised Statutes of Nebraska was amended to allow the County Board to designate specific type of plats to be approved by the County Planning Commission or the Planning Director.

ANALYSIS:

1. This request amends the Lancaster County Land Subdivision regulations to allow the Planning Director to approve final plats. Currently final plats require two public hearings; one before the Planning Commission and another one before the County Board. This amendment would shorten the approval time considerably. All requirements for approval of a final plat have not changed.

2. A new paragraph has been added to Section 3.16 that allows an appeal of the Planning Director's action to the Planning Commission. The Planning Commission's action can be appealed to the County Board.

3. This amendment to Section 3.03 and 9.03 is to clarify that a preliminary plat is not required when a Community Unit Plan is submitted that contains all necessary information for a subdivision.
4. Currently a general notice describing the property location and the date and location of the Commission hearing is mailed to property owners within one mile of the boundaries of the proposed subdivision. With the approval of this application, there will be no Commission hearing unless the approval of the subdivision by the Planning Director is appealed. With the Commission hearing no longer necessary, Section 3.15 (b) requiring notification of the Commission hearing has been deleted.
5. Following is the proposed amendments;

Proposed Language

Sec. 3.03. FILING PRELIMINARY PLAT. Except as provided in Section 3.02 and 9.03 of this chapter, a plat shall be required under this Resolution. A person proposing to subdivide land shall file with the Planning Director copies of the preliminary plat prepared in accordance with the specifications of Chapter 7 herein. The Planning Director shall determine the number of copies to be filed.

Sec. 3.12. FILING FINAL PLAT.

(a) If the preliminary plat is still in effect as set out in Section 3.09, a final plat in accordance with the approved preliminary plat may be filed. The final plat shall be drawn in accordance with an accurate survey of the subdivision, the approved preliminary plat, and the design standards set out in Chapter 4 herein. The subdivider shall file with the Planning Department the final plat and in addition thereto the number of copies required by the Planning Director, together with the following documents:

* (1) Prior to the approval of the final plat by ~~the Board~~ the Planning Director the subdivider shall provide a statement from the County Treasurer's Office showing that, according to their records, there are no liens of taxes against said land within the proposed subdivision or any part thereof. The subdivider shall also provide a statement from the County Treasurer's Office showing that all special assessment installment payments are current as applied to said proposed subdivision or any part thereof. The County shall assume no responsibility for any tax or special assessment liability on the property to be subdivided, and approval of said final plat shall not be construed as either approval of or act as a waiver of the enforcement of all applicable statutes and resolutions with regard to the collection of taxes and special assessments on the proposed subdivided property or any part thereof. All taxes and special assessments must be paid in full on all real property dedicated in fee to a public use. (Resolution #4852, March 31, 1992.)

(2) In the event of any proposed dedication for public use, a certificate of title or a title opinion issued to or for the benefit and protection of the County showing all parties whose consent is necessary to pass clear title for the land being subdivided and dedicated, together with the nature of their interests therein, shall be furnished. Such proof of title shall be in a form acceptable to the County Attorney. Any subsequent change affecting ownership of the proposed subdivision or any part thereof shall be made only upon the prompt notification and certification to the Planning Director of said changes in ownership. The County shall assume no responsibility for

any title problem with said proposed subdivision or any part thereof, and approval of said final plat shall not be construed as approval of the title of the proposed subdivision or any part thereof. *

(3) Whenever property is subdivided with the intention that it will have a use other than permitted by the district in which such property is located as designated on the then existing Lancaster County zoning district maps, such use shall be stated. No final plat shall be approved unless or until it complies with the zoning resolution of the County.

(b) If the time period between the effective date of the approved preliminary plat and the date the final plat is submitted exceeds five (5) years and the required improvements have not been

installed, the subdivider may, prior to preparing the final plat, request a written opinion from the Planning Director as to whether the conditions of approval and the approved preliminary plat are still in compliance with the subdivision resolution, design standards, and required improvements. The Planning Director shall submit to the subdivider a written response indicating whether the conditions of approval and the approved preliminary plat are still in compliance with the current subdivision resolution, design standards, and required improvements. If the preliminary plat is not in compliance, the Planning Director shall list the items of noncompliance and may require that a new preliminary plat be submitted by the subdivider pursuant to all of the provisions of the Subdivision Resolution.

Sec. 3.13. DEPARTMENT REPORTS ON FINAL PLAT.

(a) The Planning Director shall distribute copies of the final plat and other accompanying data to other county departments and governmental agencies who are directly concerned with the proposed subdivision. ~~Reports shall be returned to the Planning Director within 30 days.~~

(b) Each department or governmental agency which is directly concerned with the proposed subdivision shall, within ten days from receipt of a copy of the final plat, file with the Planning Director its approval of said plat or a report indicating in what manner such final plat does not conform to the requirements of this resolution and all other rules, regulations, and standards adopted pursuant to this resolution over which such department has administrative responsibility.

(c) Within fifteen days from receipt of all the above reports, the Planning Director shall notify the subdivider in writing of the recommended approval, conditional approval or disapproval of the final plat based upon a review of the recommendations of the various departments and the Director's own review of the design of the subdivision. If the Director finds that the final plat should be conditionally approved, the notification shall set forth all conditions of approval. The Planning Director shall also furnish the subdivider a subdivision agreement to be executed by the subdivider and the County Board wherein the subdivider agrees to comply with all conditions of approval and further agrees to construct the required improvements as provided therein.

Sec. 3.14. REQUISITES FOR FINAL PLAT APPROVAL.

No final plat shall be approved by the ~~Board~~ Planning Director unless or until all the required minimum improvements as set out in the approval of the preliminary plat have been installed and constructed and such has been approved by the appropriate agency, except individual water well systems and individual wastewater systems. In those subdivisions where an individual water well system and individual wastewater system is allowed the subdivider shall agree to install and construct such systems on each lot prior to or at the time improvements are erected on the lot.

Sec. 3.15. FINAL PLAT FEES AND NOTIFICATION.

~~(a)~~ A fee of one hundred twenty five dollars (\$125.00) plus twenty five dollars (\$25.00) per lot, to a maximum of two thousand five hundred dollars (\$2,500.00) shall be paid to the County at the same time a plat is filed with the Planning Director. (November 18, 1999; Resolution No. 99-2330; September 5, 2003, Resolution No. 03-0091)

~~(b)~~ A general notice describing the property location and the date and location of the Commission hearing will be mailed at least ten (10) days before Planning Commission's public hearing to the owners of record within one mile of the boundaries of the proposed subdivision. Receipt of such notice is not mandatory or required as a condition precedent to any such public hearing. (Resolution No. 5344, June 25, 1996) (November 18, 1999; Resolution No. 99-2330)

Sec. 3. 16. FINAL PLAT APPROVAL.

(a) When the final plat conforms to the approved preliminary plat and the requirements have been accomplished, certification to this effect shall be endorsed on the final plat by the Chairman of the Commission Planning Director.

(b) Any aggrieved person may appeal any action of the Planning Director to the Planning Commission, and any decision of the Planning Commission to the County Board by filing notice of an appeal within fourteen days following the action being appealed. The appeal of the Planning Director's action shall be filed with the Director, and the appeal of the Planning Commission's action

shall be filed with the County Clerk. If the Planning Commission approves a final plat and its action is not appealed to the County Board, the final plat shall be signed by the Chairman of the Commission. If the County Board approves a final plat after the appeal of the denial of such a plat by the Commission, no further action shall be required by the Commission to approve such a plat. After approval thereof by the County Board, the plat shall be returned to the Planning Department for signing by the Chairman of the Commission. Thereafter, such plat shall be processed in accordance with the procedures set forth in Section 3.17

~~Where the final plat does not conform to the approved preliminary plat, the Commission shall submit its recommendation to the Board for approval or disapproval of the final plat. The Board shall approve said final plat if the same conforms to the requirements of this resolution applicable at the time of the approval of the preliminary plat except as provided in Section 3.09 of this chapter. At the time of approval, the Board may set forth conditions and shall also expressly accept or reject any or all offers of dedication.~~

Sec. 3.17. FINAL PLAT FILED WITH REGISTER OF DEEDS.

No plat shall be filed for record or recorded in the Office of the Register of Deeds of Lancaster County, and no lot shall be sold from such plat unless and until:

(a) Such final plat has been approved by the ~~Board~~ Planning Director, or in the event of an appeal, by the Planning Commission or County Board;

~~(b)~~ The resolution accepting such final plat has become effective;

~~(c)~~ (b) Provision for the installation and construction of all required minimum improvements have been fulfilled;

~~(d)~~ (c) The subdivider has submitted to the Planning Director the recording fee. Thereafter, the approved final plat, along with the subdivision agreement and any all other required agreements, and an analysis of the quality and quantity of underground water when individual water well systems are to be used, shall be filed and recorded in the Office of the Register of Deeds of Lancaster County, Nebraska. Thereupon, such final plat shall be equivalent to and operate as a deed in fee simple to Lancaster County or other applicable utility or governmental entity from the owner of all streets, alleys, public ways and grounds, and of such portions of land as herein set apart for public and County use. The Planning Director shall have the responsibility

for transmitting to the Office of Register of Deeds the approved final plat, the subdivision agreement, any other required agreements and any other data that must be recorded. The Planning Director shall ascertain the amount of the recording fees due to the Register of Deeds and notify the subdivider.

Sec. 3.18. SURVEY ERRORS.

In the event that a survey error is found at any time after the filing of the final plat with the Register of Deeds, the subdivider shall be notified by the Planning Director. Thereafter, the subdivider shall immediately proceed to cause the survey error to be corrected. Building permits on any or all the lots within the subdivision may be withheld and the Board County may take such action it deems appropriate to obtain the correction of the survey error. The subdivider shall submit to the Planning Director a corrected final plat, an explanation letter setting forth the corrections, and a fee of one hundred twenty five dollars (\$125.00). The Planning Director shall transmit the corrected final plat and the letter of explanation to the County Engineer. The County Engineer shall review and return comments to the Planning Director. ~~Thereafter, a copy of the corrected plat, the letter of explanation to the County Engineer, and the recommendation by the Planning Director shall be transmitted to the County Attorney and County Clerk. The County Attorney shall prepare a resolution approving and accepting the corrected final plat and voiding the plat with the survey error. The Board may then approve and accept the corrected final plat. (September 5, 2003, Resolution No. 03-0091)~~

After the Planning Director has approved the corrected final plat such approval, the Planning Director shall then file ~~the resolution approving and accepting the corrected final plat and~~ the approved corrected final plat in the Office of the Register of Deeds. The recording fee shall be paid in advance by the subdivider and submitted to the Planning Director. The name of the corrected final plat shall be "A corrected plat of (the name of the said subdivision)." The word "replat" shall not be used. The corrected plat shall comply with this resolution and the conditions of the original plat as approved by the Board County.

Sec. 3.20. FINAL PLAT AMENDMENTS.

After a final plat has been approved ~~by the Board~~, the Planning Director is authorized to approve amendments to the plat if:

- (a) A request for amendment is filed with the Planning Director, accompanied by a survey, if appropriate;
- (b) There is no increase in the number of lots;
- (c) No public land will be accepted as a result of the amendment, except as may be incidental to the adjustment of lot lines and/ or right-of-way lines;
- (d) The amendment is consistent with the purposes of this chapter;
- (e) A fee of two hundred fifty dollars (\$250.00) is paid to the County;
- (f) The amended plat is filed in the Office of the Register of Deeds of Lancaster County, Nebraska, and the recording fees have been paid in advance by the subdivider and submitted to the Planning Director.

Sec. 8.03. CERTIFICATES AND ACKNOWLEDGEMENTS ON FINAL PLAT.

The final plat shall show the following:

- (a) Owner's acknowledgement and offer of dedication, if any. Such plat shall be signed and acknowledged by the owner or owners of the land subdivided in the same manner and form as the acknowledgment of a deed conveying real estate, before some officer authorized to take the acknowledgments of deeds;

- (b) Certificate of the surveyor;
- (c) Certificate of approval by the Planning Commission; Director;
- ~~(d) Certificate of the County Clerk showing approval by the Board and acceptance of the offer of dedication;~~
- (e) All affidavits, certificates, acknowledgments, endorsements, dedications, and notarial seals as are required by law and the provisions of this resolution shall be as approved by the County Attorney.

Sec. 9.03. COORDINATING SUBDIVISION AND COMMUNITY UNIT PLAN.

~~Whenever the tract to be subdivided is included in a community unit plan, the Board, after report by the Planning Commission, may vary or modify the requirements of this resolution so as to permit the coordinated development of a subdivision and a community unit plan; provided the public welfare and interests of the County and surrounding area are protected and the general intent and spirit of the regulations preserved.~~

A preliminary plat is not required whenever the tract to be subdivided is included in a community unit plan. The approval of said community unit plan shall require that the tract to be subdivided conform to the requirements of this title, except that the approval may include a provision varying or modifying the requirements of this title so as to permit the coordinated development of a subdivision and a community unit plan; provided the public welfare and interests of the county and surrounding area are protected and the general intent and spirit of the regulations preserved.

The Planning Director shall be authorized to approve final plats submitted in accordance with a community unit plan, notwithstanding the fact that such plats require modifications to the requirements of this title if such modifications were specifically approved at the time of approval of the community unit plan.

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DATE: September 28, 2005

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